IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO.20557 of 1998

Between:

1 Padamati Venkateswarlu, S/o late Musalaiah,
Gollagudem Village, Kalidindi Mandal,
Krishna District.
2 Bathina Bogeswara Rao, S/o late Suraiah,
Kallapalem Village, Kalidindi Mandal,
Krishna District.

..... PETITIONERS

AND

1 Sri Kodandaswamyvari Devasthanam, Rep. by Executive Officer,
Venkatapuram, Kalidindi Mandal,
Krishna District.
2 Assistant Commissioner, Endowments Department,
Vijayawada District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring the proposed auction of lands in R.S.No.87/B2A, 87/B3, 87/B1A, 87/B1C & 87/A1 of an extent of Ac.2-14, 6-36, 1-68, 7-36 and 0-31 cents situated at Venkatapuram Village, Kalidindi Mandal, Krishna District as wholly without jurisdiction and consequently direct the respondents not to dispossess the petitioners from the lands in except in accordance with the A.P.(Andhra Area) Tenancy Act 1956.

Counsel for the Petitioners: MR.P.SRI RAGHU RAM

Counsel for the Respondents: GP FOR ENDOWMENTS for R2

Smt. Indrani, Standing Counsel for R1

The Court made the following:

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 20557 of 1998

Oral order:

The petitioners, who claim to be landless poor persons and cultivating tenants of the agricultural lands belonging to the

1st respondent-Kodandaramaswamyvari Devasthanam, have filed this writ petition questioning the action of the respondents in proposing to conduct auction of the agricultural lands in their possession and cultivation, contending that the provisions of A.P. (Andhra Area) Tenancy Act, 1956 would apply to the tenancies of agricultural lands under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

Upon completion of six years, as directed by a Division Bench of this Court in W.A. No.1700 of 1995, dated 7-12-1995, the respondents sought to auction the leasehold rights of the lands of the Devasthanam, and at that point of time, the petitioners assailing the auction notice filed this writ petition, and though by virtue of the orders of interim stay of dispossession passed therein on 21-7-1998, is still continuing in the lands belonging to the Devasthanam, it is unfortunate to note that the respondents till date, have not taken any steps to get the interim order of stay of dispossession vacated, nor have filed any counter to the writ petition.

The contention of the petitioners that the provisions of A.P. (Andhra Area) Tenancy Act, 1956 would apply to the tenancies of agricultural lands under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, having regard to the judgment of the apex Court in **State of A.P. and Others v. Nallamilli Rami Reddy and Others**, cannot be accepted for the reason that the Apex Court in the said case held that the provisions of the A.P. (Andhra Area) Tenancy Act, 1956 are not applicable to agricultural lands leased under the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

The learned Standing Counsel for the 1st respondent-Devasthanam and the Government Pleader for Endowments for the 2nd respondent-Assistant Commissioner of Endowments, brought to my notice the Rules framed by the Government in G.O. Ms. No. 379, Revenue (Endowment-I), dated 11-3-2003, known as A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003. As per Rule 5 of the said Rules, the authorities are required to issue notice in Form No. I to the cultivating tenant duly informing him that the lease held by him stood cancelled by virtue of the provisions of sub-section (1) of Section 82 of the Act, and that the lease hold rights in respect of the said lands are proposed to be leased out as per the Rules, and calling upon him to forthwith handover possession of the lands, failing which he shall be evicted invoking the provisions under Section 84, 85 and 86 of the Act, treating him as an encroacher in the order passed under Section 83(4) of the Act.

Admittedly, the lease granted to the petitioners had long expired, and when the lands were sought to be put to auction, the petitioners filed the present writ petition, and obtained interim orders, and by virtue of the said interim orders, they are continuing to be in possession of the lands. Since the lease granted to the petitioners had long expired, and their continuance in the land in question, is by virtue of the orders of this Court, no notice as required by Rule 5 of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Rules, 2003, need be issued to the petitioners informing them that the lease granted to them stood cancelled.

However, before proceeding to auction the leasehold rights of the lands, if the petitioners within a period of four weeks from the date of receipt of a copy of this order, make any application under Section 82 of the Act, contending that they are landless poor persons, and as such, are entitled to grant of leases, the 2nd respondent-Assistant Commissioner, shall determine the status of the petitioners, whether they are landless poor persons or not, and if so, whether they are entitled to grant of leases, and if he determines and comes to the conclusion that the petitioners are not small farmers, then he is at liberty to proceed with the auction of the leasehold rights of the lands.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 3-3-2005.

KSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Officer,
Sri Kodandaswamyvari Devasthanam, Venkatapuram, Kalidindi

Mandal, Krishna District.
2 Assistant Commissioner, Endowments Department,
Vijayawada District.

3. Standing Counsel for respondent No.1

3 Two CCs to GP for Endowments, High Court Buildings, Hyderabad

(OUT)

4 Two CD copies

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